

DOCKET NO. 12-0002

IN RE:	§	BEFORE THE
INQUIRY CONCERNING JUDGE	§	SPECIAL COURT OF REVIEW,
HONORABLE J. KENT ADAMS	§	APPOINTED BY THE
CJC Nos. 11-0141-JP, 11-0514-JP	§	SUPREME COURT OF TEXAS

CHARGING DOCUMENT

TO THE HONORABLE MEMBERS OF THE SPECIAL COURT OF REVIEW:

Pursuant to Section 33.034(d) of the Texas Government Code, Examiners for the State Commission on Judicial Conduct hereby file this Charging Document, requesting that this Special Court of Review conduct its *de novo* review of a sanction issued to Judge J. Kent Adams.

I. The Sanction

As required by Section 33.034(d) of the Texas Government Code, attached as **Exhibit “A”** is the Public Admonition issued by the Commission on March 28, 2012. **Exhibit “A”** and its contents are incorporated by reference as if set forth verbatim herein.

II. Factual Allegations

1. At all relevant times, Petitioner was the Justice of the Peace for Precinct 4, Place 1, in Spring, Harris County, Texas.
2. Petitioner is also an attorney who has been licensed to practice law in the State of Texas since 1972.
3. As a judge, Petitioner is charged with knowledge of the provisions of the Texas Code of Judicial Conduct, the Texas Constitution, and the Texas Government Code that pertain to the conduct of judges.
4. As a judge, Petitioner has received additional training in the field of judicial conduct and ethics, which includes the requirements for:
 - (a) maintaining order and decorum in the courtroom;
 - (b) treating litigants, lawyers, and others with whom the judge interacts in an official capacity with patience, dignity, and courtesy;
 - (c) conducting proceedings without bias or prejudice; and
 - (d) conducting proceedings without manifesting bias or prejudice based on race, sex, age, national origin, or socioeconomic status.
5. In 2009, Henry Nguyen (“Nguyen”), a Houston attorney hired to represent an adult male charged with a class C misdemeanor offense of Disorderly Conduct, sought to subpoena certain school district records that he believed would assist his

client's defense. The prosecutor objected to the subpoena on the grounds that it was overly broad.

6. On or about December 9, 2009, Petitioner met in his chambers with Nguyen and the prosecutor to discuss Nguyen's request for the school district records.
7. During the meeting, Petitioner made the following statement to Nguyen, "Now listen here boy, those records are none of your goddamn business."
8. During the same meeting, Petitioner referred to Nguyen's client as a "little brat nosed, punk ass kid with a foul mouth and bad attitude," and commented, "[This] kid has money to go and hire an attorney to file all these motions and asking for this and that."
8. Based on Petitioner's comments in chambers, Nguyen filed a motion to recuse Petitioner from presiding over his client's case, along with a supporting affidavit detailing the comments that Petitioner allegedly made in chambers.
9. After receiving the motion to recuse, Petitioner asked the prosecutor's supervisor to contact Nguyen and request an apology for allegedly making false statements about Petitioner in the recusal motion and supporting affidavit.
10. After Nguyen refused to apologize, Petitioner instructed his clerk to contact Nguyen and inform him that if Nguyen were to file a "plain vanilla" motion to recuse, Petitioner would voluntarily recuse himself from the case.
11. Nguyen accepted Petitioner's offer, and on February 9, 2010, filed an "Amended Motion to Recuse," which contained essentially the same allegations, but did not include a supporting affidavit.
12. Petitioner did not grant Nguyen's Amended Motion to Recuse.
13. Petitioner subsequently asked the prosecutor to sign an affidavit stating that the allegations made by Nguyen in his recusal motion were false.
14. Petitioner also attempted to persuade the prosecutor's supervisor to file perjury charges against Nguyen for the statements made in his motion.
15. Petitioner did not forward Nguyen's recusal motion to the presiding administrative judge for handling until May, 2010.
16. The presiding administrative judge, after a hearing, granted the motion to recuse on May 13, 2010.
17. On or about February 1, 2011, Petitioner, from the bench, referred to juvenile defendants appearing in his court as "jackasses," "psychos," and "weirdos."
18. On or about February 1, 2011, Petitioner, from the bench, repeatedly used the word "hell" while conducting court proceedings.
19. On or about February 1, 2011, Petitioner, from the bench, told a male juvenile defendant that he would throw his "twat" in jail.

20. On or about February 1, 2011, Petitioner, from the bench, asked an African American parent of a juvenile defendant if she was on welfare and expected the government to pay her fine.
21. On or about February 1, 2011, Petitioner, from the bench, asked a Hispanic parent of a juvenile defendant if she had six or seven kids.
22. On or about February 1, 2011, Petitioner, from the bench, told a Pakistani parent of a juvenile defendant that the juvenile should be “stoned to death.”
23. Petitioner has been disciplined in the past for failing to be patient, dignified, and courteous towards a litigant and her lawyer appearing in his court.

III. Relevant Standards

1. Article V, Section 1-a(6)A of the Texas Constitution provides, in relevant part, that any justice or judge of the courts established by the Constitution or created by the Legislature may be disciplined for “willful violation of the Code of Judicial Conduct, or willful or persistent conduct that is clearly inconsistent with the proper performance of his duties or casts public discredit upon the judiciary or administration of justice.”
2. Section 33.001(b) of the Texas Government Code defines “willful or persistent conduct that is clearly inconsistent with the proper performance of a judge's duties” as, among other things, “willful violation of...the Code of Judicial Conduct.”
3. Canon 3B(3) of the Texas Code of Judicial Conduct states that, “A judge shall require order and decorum in proceedings before the judge.”
4. Canon 3B(4) of the Texas Code of Judicial Conduct states, in part, “A judge shall be patient, dignified and courteous to litigants,...lawyers, and others with whom the judge deals in an official capacity...”
5. Canon 3B(5) of the Texas Code of Judicial Conduct states that, “A judge shall perform judicial duties without bias or prejudice.”
6. Canon 3B(6) of the Texas Code of Judicial Conduct states, in part, “A judge shall not, in the performance of judicial duties, by words or conduct manifest bias or prejudice, including but not limited to bias or prejudice based upon race, sex, religion, national origin, disability, age, sexual orientation or socioeconomic status...”

IV. Charges

CHARGE I

Petitioner, by the comments he made to Nguyen during an in-chambers hearing, as more fully described above, failed to remain patient, dignified or courteous towards a lawyer appearing before him on official court business and therefore, engaged in willful violation of the Code of Judicial Conduct, or willful or persistent conduct that is clearly inconsistent with the proper performance of his duties or casts public discredit upon the judiciary or administration of justice, in violation of the standards set forth in:

- a. Article V, §1-a(6)A of the Texas Constitution;
- b. Section 33.001(b) of the Texas Government Code; and
- c. Canon 3B(4) of the Texas Code of Judicial Conduct.

CHARGE II

Petitioner, by the comments he made to Nguyen during an in-chambers hearing, as more fully described above, failed to perform his duties without bias or prejudice and therefore, engaged in willful violation of the Code of Judicial Conduct, or willful or persistent conduct that is clearly inconsistent with the proper performance of his duties or casts public discredit upon the judiciary or administration of justice, in violation of the standards set forth in:

1. Article V, §1-a(6)A of the Texas Constitution;
2. Section 33.001(b) of the Texas Government Code; and
3. Canon 3B(5) of the Texas Code of Judicial Conduct.

CHARGE III

Petitioner, by the comments he made to Nguyen during an in-chambers hearing, as more fully described above, manifested a bias or prejudice based on race, age, national origin, or socioeconomic status, and therefore, engaged in willful violation of the Code of Judicial Conduct, or willful or persistent conduct that is clearly inconsistent with the proper performance of his duties or casts public discredit upon the judiciary or administration of justice, in violation of the standards set forth in:

1. Article V, §1-a(6)A of the Texas Constitution;
2. Section 33.001(b) of the Texas Government Code; and
3. Canon 3B(6) of the Texas Code of Judicial Conduct.

CHARGE IV

Petitioner, by his conduct in response to Nguyen's Motion to Recuse, as more fully described above, failed to perform his duties without bias or prejudice and therefore, engaged in willful violation of the Code of Judicial Conduct, or willful or persistent conduct that is clearly inconsistent with the proper performance of his duties or casts public discredit upon the judiciary or administration of justice, in violation of the standards set forth in:

1. Article V, §1-a(6)A of the Texas Constitution;
2. Section 33.001(b) of the Texas Government Code; and

3. Canon 3B(5) of the Texas Code of Judicial Conduct.

CHARGE V

Petitioner, by the comments he made from the bench to juvenile defendants and their parents, as described more fully above, failed to maintain order and decorum in the courtroom and therefore, engaged in willful violation of the Code of Judicial Conduct, or willful or persistent conduct that is clearly inconsistent with the proper performance of his duties or casts public discredit upon the judiciary or administration of justice, in violation of the standards set forth in:

1. Article V, §1-a(6)A of the Texas Constitution;
2. Section 33.001(b) of the Texas Government Code; and
3. Canon 3B(3) of the Texas Code of Judicial Conduct.

CHARGE VI

Petitioner, by the comments he made from the bench to juvenile defendants and their parents, as described more fully above, failed to remain patient, dignified or courteous towards individuals appearing before him on official court business and therefore, engaged in willful violation of the Code of Judicial Conduct, or willful or persistent conduct that is clearly inconsistent with the proper performance of his duties or casts public discredit upon the judiciary or administration of justice, in violation of the standards set forth in:

1. Article V, §1-a(6)A of the Texas Constitution;
2. Section 33.001(b) of the Texas Government Code; and
3. Canon 3B(4) of the Texas Code of Judicial Conduct.

CHARGE VII

Petitioner, by the comments he made from the bench to juvenile defendants and their parents, as described more fully above, failed to perform his duties without bias or prejudice and therefore, engaged in willful violation of the Code of Judicial Conduct, or willful or persistent conduct that is clearly inconsistent with the proper performance of his duties or casts public discredit upon the judiciary or administration of justice, in violation of the standards set forth in:

1. Article V, §1-a(6)A of the Texas Constitution;
2. Section 33.001(b) of the Texas Government Code; and
3. Canon 3B(5) of the Texas Code of Judicial Conduct.

CHARGE VIII

Petitioner, by the comments he made from the bench to juvenile defendants and their parents, as described more fully above, manifested a bias or prejudice based on race, sex, national origin, or socioeconomic status, and therefore, engaged in willful violation of the Code of Judicial Conduct, or willful or persistent conduct that is clearly inconsistent with the proper performance of his duties or casts public discredit upon the judiciary or administration of justice, in violation of the standards set forth in:

1. Article V, §1-a(6)A of the Texas Constitution;
2. Section 33.001(b) of the Texas Government Code; and
3. Canon 3B(6) of the Texas Code of Judicial Conduct.

V. Prayer

Examiners respectfully requests that the Special Court of Review conduct a public *de novo* hearing pursuant to Section 33.034(e)(2) of the Texas Government Code and issue its decision as to the proper disposition of the appeal.

Respectfully Submitted,

EXAMINERS:

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ORIGINAL SIGNED BY

BY: _____
Patrick Summers

CERTIFICATE OF SERVICE

Service of this instrument has been made on the Honorable J. Kent Adams, by and through his attorney of record, Kent M. Adams on April 30, 2012, at the Law Offices of Lewis, Brisbois, Bisgaard, and Smith, L.L.P., 3355 West Alabama, Suite 400, Houston, Texas 77098, by electronic service and regular U.S. Mail, in accordance with the Texas Rules of Civil Procedure and the Texas Supreme Court's rules for electronic filing and service.

ORIGINAL SIGNED BY

Patrick Summers

EXHIBIT “A”



BEFORE THE STATE COMMISSION ON JUDICIAL CONDUCT

CJC Nos. 11-0141-JP AND 11-0514-JP

PUBLIC ADMONITION

**HONORABLE J. KENT ADAMS
JUSTICE OF THE PEACE, PRECINCT 4, PLACE 1
SPRING, HARRIS COUNTY, TEXAS**

During its meeting on February 16, 2012, the State Commission on Judicial Conduct concluded its review of the allegations against the Honorable J. Kent Adams, Justice of the Peace, Precinct 4, Place 1, Spring, Harris County, Texas. Judge Adams was advised by letter of the Commission’s concerns and provided a written response. Judge Adams appeared before the Commission, with counsel, on February 16, 2012, and provided testimony. After considering the evidence before it, the Commission entered the following Findings and Conclusions.

FINDINGS OF FACT

15. At all times relevant hereto, the Honorable J. Kent Adams was Justice of the Peace for Precinct 4, Place 1 in Spring, Harris County, Texas.

CJC No. 11-0141-JP

16. Attorney Henry Nguyen (“Nguyen”) was hired to represent Drew Zardeneta, who had been cited for Disorderly Conduct. The case was filed in Judge Adams’ court.
17. In preparation for trial, Nguyen filed subpoenas and subpoenas *duces tecum* seeking various school records. The prosecutor filed motions to quash the subpoenas and requested a hearing.
18. On December 9, 2009, Nguyen and prosecutor Kristin Brown (“Brown”) were escorted to Judge Adams’ chambers, where the judge convened the hearing.

19. After Brown presented arguments in favor of quashing the subpoenas, Nguyen attempted to explain why he needed the records from the school, but was interrupted by the judge.
20. As the conversation between Judge Adams and Nguyen became more contentious, Judge Adams became impatient with Nguyen and used an expletive to express his frustration.
21. According to Nguyen, Judge Adams called him “boy” and told him that “those records are none of your goddamn business.”
22. Nguyen also reported that Judge Adams referred to Nguyen’s client as a “little brat nosed, punk ass kid with a foul mouth and bad attitude” and further remarked that the “Kid has money to go and hire an attorney to file all of these motions and asking for this and that.”
23. Judge Adams disputes Nguyen’s version of events, but acknowledges using the expletive “goddamn” in the course of this heated conversation.
24. Believing that Judge Adams would not be fair and impartial while presiding over his client’s case following this exchange, Nguyen filed a Motion to Recuse the judge. Nguyen attached an affidavit to the motion reciting the above facts in support thereof.
25. According to Nguyen, after Judge Adams received the Motion to Recuse, the judge contacted Brown’s supervisor, Johanna Craft (“Craft”), and had her relay a message to Nguyen that the judge wanted an apology.
26. Nguyen advised Craft that he would not be apologizing for stating the truth in his affidavit.
27. Nguyen was later contacted by Rich Schmidt, Judge Adams’ head clerk, who advised Nguyen that if he filed a “plain vanilla” motion to recuse, Judge Adams would sign it and recuse from the case. Nguyen agreed to this offer.
28. On February 9, 2010, Nguyen filed what he believed to be the “plain vanilla” motion requested by the judge; however, although the motion was entitled “Amended Motion to Recuse,” and contained no affidavit, it contained essentially the same allegations of bias as he had previously filed.
29. Shortly thereafter, Craft contacted Nguyen and advised him that Judge Adams was not willing to sign the “plain vanilla” motion to recuse.
30. According to Nguyen, Craft also told him that Judge Adams had called Brown into his office in an unsuccessful attempt to persuade her to sign an affidavit stating that the allegations in Nguyen’s affidavit were false. This was later confirmed to Nguyen by Brown. Judge Adams was also unsuccessful in his attempt to persuade Craft to file perjury charges against Nguyen.
31. Judge Adams eventually forwarded the Motion to Recuse to the presiding administrative judge, and shortly thereafter, on May 13, 2010, that judge conducted a hearing on the matter.
32. Following the hearing, Judge Adams was recused from the case, which was then assigned to another court.

CJC No. 11-0514-JP

19. On February 1, 2011, Carol Knudson's ("Knudson") and her 13-year old son appeared in Judge Adams' court after her son was charged with Disrupting School Transportation.
20. According to Knudson, while waiting for her son's case to be called, she observed Judge Adams exhibiting poor judicial demeanor towards certain defendants and their parents in court.
21. Specifically, Knudson claimed that Judge Adams:
 - a. told a defendant that he would "throw his twat in jail;"
 - b. asked an African-American parent "if she was on welfare and expected the government to pay her fine;"
 - c. asked a Hispanic parent "if she had 6 or 7 kids;"
 - d. told a Pakistani parent that her son should be "stoned to death."
22. Knudson went on to describe how Judge Adams yelled at her son because his hair was long and fell over his eye.
23. Knudson stated that the experience in Judge Adams' court was so traumatic that she decided to pay her son's fine rather than have to appear again in front of this judge.
24. In his testimony before the Commission, Judge Adams stated that he did not recall using the word "twat," but if he did, it slipped out inadvertently. The judge added that he had only recently learned that the term was offensive.
25. The judge acknowledged having discussions with the African-American, Hispanic, and Pakistani parents identified by Knudson, but attempted to place his statements in context.
26. Judge Adams went on to surmise that Knudson may have misunderstood that there would have been valid reasons for a judge to have made these inquiries and comments in connection with the facts and evidence before him at the time.
27. For example, with regard to the Pakistani parent, Judge Adams explained that he had been advised in previous court appearances involving this defendant that the parents wanted to send their son to Pakistan to live with an uncle. At the February 1st court appearance, Judge Adams reminded the defendant that he was fortunate to be living in the United States rather than Pakistan, where being stoned to death is a punishment for certain criminal behaviors.
28. According to the judge, the inquiry of the African-American parent was to determine if she was indigent, and the question posed to the Hispanic parent was to determine if she qualified for special services at MHMR.

RELEVANT STANDARDS

1. Canon 2A of the Texas Code of Judicial Conduct states that "[a] judge shall comply with the law and should act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary."

2. Canon 3B(2) of the Texas Code of Judicial Conduct states, in pertinent part, that “[a] judge shall maintain professional competence in [the law.]”
3. Canon 3B(4) of the Texas Code of Judicial Conduct states, in pertinent part: “A judge shall be patient, dignified and courteous to litigants, jurors, witnesses, lawyers and others with whom the judge deals in an official capacity...”
4. Canon 3B(5) of the Texas Code of Judicial Conduct states, in pertinent part: “A judge shall perform judicial duties without bias or prejudice.”
5. Article V, §1-a(6)A of the Texas Constitution states, in part, that a judge may be disciplined for “willful or persistent violation of rules promulgated by the Supreme Court of Texas, incompetence in performing the duties of the office, willful violation of the Code of Judicial Conduct, or willful or persistent conduct that is clearly inconsistent with the proper performance of his duties or casts public discredit upon the judiciary or administration of justice.”

CONCLUSION

Regarding CJC No. 11-0141-JP, the Commission concludes from the facts and evidence presented that Judge Adams failed to comply with the law and demonstrated a lack of professional competence in the law by failing to promptly forward the Motion to Recuse to the presiding administrative judge for resolution. While Nguyen’s allegations of bias may have offended the judge, who disputed the events described in Nguyen’s affidavit, the judge’s attempts to negotiate the contents of the motion with Nguyen, coupled with his efforts to have Nguyen prosecuted for perjury, created such a perception of bias and partiality as to warrant Judge Adams’ recusal. In addition, the judge acknowledged being angry and impatient with Nguyen, and using an expletive during a hearing to express his frustration with Nguyen, demonstrating a lack of patience, dignity and courtesy expected of a judicial officer. The Commission concludes that Judge Adams’ conduct, as described herein, constituted willful or persistent violations of Canons 2A, 3B(2), 3B(4) and 3B(5) of the Texas Code of Judicial Conduct, and Article V, §1-a(6)A of the Texas Constitution.

Regarding CJC No. 11-0514-JP, the Commission concludes from the facts and evidence presented that Judge Adams demonstrated a lack of patience, dignity and courtesy expected of a judicial officer when interacting and communicating with certain defendants and their parents in court, and that some of the discussions were perceived by litigants to have demonstrated bias and prejudice on the part of the judge. The Commission concludes that Judge Adams’ conduct, as described herein, constituted willful or persistent violations of Canons 3B(4) and 3B(5) of the Texas Code of Judicial Conduct, and Article V, §1-a(6)A of the Texas Constitution.

In condemnation of the conduct described above that violated 2A, 3B(2), 3B(4), and 3B(5) and of the Texas Code of Judicial Conduct, and Article V, §1-a(6)A of the Texas Constitution, it is the Commission’s decision to issue a PUBLIC ADMONITION to the Honorable J. Kent Adams, Justice of the Peace, Precinct 4, Place 1, Spring, Harris County, Texas.

Pursuant to the authority contained in Article V, §1-a(8) of the Texas Constitution, it is ordered that the actions described above be made the subject of a PUBLIC ADMONITION by the Commission.

The Commission has taken this action in a continuing effort to protect public confidence in the judicial system and to assist the state's judiciary in its efforts to embody the principles and values set forth in the Texas Constitution and the Texas Code of Judicial Conduct.

Issued this 28th day of March, 2012.

ORIGINAL SIGNED BY

Honorable Tom Cunningham, Chair
State Commission on Judicial Conduct